

# SECTION E – EMPLOYEE PERFORMANCE

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### **Policy - Section E - Employee Performance**

## **I. Performance Appraisals**

### **I.1. Policy**

The performance of each employee shall be evaluated periodically, and written appraisals shall be used to provide information for taking appropriate personnel actions (i.e., promotions, demotions, salary increases, assignments, dismissal). The written appraisal shall be sufficiently specific to inform and guide the employee and to provide information to management for use in making subsequent personnel decisions.

Written performance appraisals are the formal mechanism that gives each supervisor and employee an opportunity to discuss the employee's job responsibilities and performance for a specific period of time, to review any issues that may have arisen, and to establish future job objectives. Periodic written performance appraisals are not intended to replace the day-to-day relationship between supervisor and employee.

### **I.2. Appraisal Process**

The performance appraisal process includes

- a. A discussion between the immediate supervisor and the employee to reach an understanding on duties, responsibilities, and objectives.
- b. A review of progress and performance to date with regard to duties, responsibilities, accomplishments, and objectives, and, as appropriate, planning for more effective performance.
- c. For each supervisor having direct responsibility for meeting established commitments to equal employment opportunity and affirmative action goals, a review of the supervisor's good faith efforts in these areas. In addition, each supervisor will be appraised on meeting safety and security requirements.

- d. An opportunity for each employee to discuss and ask questions about assignments and to review interest in upgrading present skills and in future development.
- e. A request for the employee to sign the appraisal as an acknowledgment that the appraisal has been read.

The supervisor's major effort on the employee's behalf during the performance appraisal process shall be to encourage excellence of performance on the present job and to plan for the development of skills within the present job. Also, the supervisor may discuss with the employee interest in long-range career goals and aspirations and shall, as appropriate, establish a time for a discussion for future career development plans. ([See Section I, "Employee Development."](#))

### **I.3. Employee Access**

Each employee shall be given, upon request, a copy of the written appraisal and an opportunity to provide written comments on the appraisal. These comments shall be included as part of the written performance appraisal.

### **I.4. Timing and Number of Appraisals**

#### **I.4.1. Timing and Number of Appraisals – Career Employees**

##### **a. Ongoing Coaching and Counseling**

As part of the day-to-day relationship between supervisor and employee, the supervisor is encouraged to keep employees well informed about the level of performance. Supervisors should make an effort not only to acknowledge job successes but also to point out areas where development or improvement may be needed. The frequency of this guidance will ordinarily be greater during the first two years of LLNL service.

##### **b. Appraisals**

The supervisor shall conduct a written performance appraisal for each employee hired to work 50% time or more for one year or more, as follows:

- An employee who has successfully completed a probationary period or who has one or more years of LLNL service shall be appraised at least once each year.
- An employee hired on a probationary period shall be appraised once at the midpoint of the probationary period and again thirty calendar days before the end of the probationary period.

- An employee who is appraised as having unsatisfactory or marginal performance shall be appraised again within six months. The time of this appraisal shall be established and incorporated into the written appraisal.
- An employee should be appraised at any time the employee's job performance or conduct is of concern.

An employee who transfers to another department/division or who has a change in supervision should be appraised at the time of the transfer or the change to a new supervisor if an appraisal has not been made within the preceding six-month period.

#### **I.4.2. Temporary, Indeterminate, and Fixed Percent: Less-than-50%-Time Employees**

A supervisor may conduct an appraisal for any temporary, indeterminate, or fixed-percent-time employee (less than 50% time) whenever the supervisor finds that an appraisal would be beneficial to the employee.

## **II. Corrective Action**

### **II.1. Policy**

This policy does not apply to flexible term, upper management personnel, or senior management employees.

### **II.2. Verbal Warning**

A verbal warning is a reminder that conduct or performance is not up to acceptable standards. Supervisors give such warnings as part of their day-to-day supervisory responsibilities. A verbal warning is not a corrective action within these procedures.

### **II.3. Reasons for Taking Corrective Action**

Corrective action may be necessary because of problems such as, but not limited to, those listed below:

- Inattention to duty.
- Unsatisfactory job performance.
- Insubordination.
- Absenteeism.
- Dishonesty.
- Theft.
- Fighting (e.g., fisticuffs or physical struggle) on the site.

- Acts that endanger other individuals.
- Sexual harassment.
- Misconduct in research.
- Violation of Laboratory or UC policies, rules and regulations, including safety and security rules, regulations and procedures.
- Violation of law.
- Misappropriation or misuse of public funds or property (e.g., falsification of time cards and travel vouchers, or utilizing LLNL time, resources, equipment or material for personal use beyond that authorized by Laboratory policies, rules and regulations).
- Retaliation against employees or individuals for exercising rights provided by personnel policies.
- A positive substance test ([see Section D.II.2.](#)).
- Other misconduct that adversely affects the Laboratory or the University of California.

## **II.4. Who May Take Corrective Action**

### **II.4.1. Supervisor Authority**

- A supervisor may give a written warning of unsatisfactory conduct or performance only with the prior approval of the department head/division leader. Also, it is advisable for the supervisor to consult with the Human Resources Manager beforehand.
- A supervisor may place an employee under investigatory leave (suspension without pay while charges of serious misconduct are under investigation) immediately, whenever the employee's actions are such that they constitute a threat to the employee or to others and it is prudent to have the employee leave the site immediately. In all other instances, the supervisor must seek the advice of the department head/division leader prior to placing an employee on investigatory leave.
- A supervisor may not take any other corrective action without the prior approval of the department head/division leader.

### **II.4.2. Department Head/Division Leader Authority**

- A department head/division leader must approve a written warning of unsatisfactory conduct or performance before the supervisor gives the warning to the employee.

- A department head/division leader may take other corrective action such as demotion or suspension only after the Human Resources Manager has been consulted.
- A department head/division leader normally advises a supervisor as to the appropriateness of the action prior to an employee being placed on investigatory leave.
- A department head/division leader may, with the concurrence of the Human Resources Manager dismiss an employee.

## **II.5. Types of Corrective Action That May Be Taken**

Corrective actions that may be taken include the following:

### **II.5.1. Written Warnings**

- a. A supervisor may give an employee a written warning, with department head/division leader approval, of unsatisfactory conduct or performance. Such written warning shall include
  - i. A statement of the nature of the offense or misconduct, or of the deficiency in job performance. (Be specific.)
  - ii. A statement of any action on the part of the employee needed to improve conduct or performance including, when appropriate, the time period in which the employee is expected to bring conduct or performance up to standard.
  - iii. A statement of the most severe action that may or might be taken should conduct or performance not improve.
  - iv. A statement of the employee's right to request review of the action under [Section H, "Grievances and Administrative Review."](#)
- b. The original of the written warning shall be given to the employee; one copy shall be placed in the employee's departmental file; and one copy shall be sent to the Human Resources Manager for inclusion in the Personnel Operations Division's employee file. No other copies shall be made. The department head/division leader and the Human Resources Manager shall be responsible for destroying the written warning two years from the date it was issued, provided that there have been during that two-year period no further corrective actions similar or related to the original incident.

### **II.5.2. Other Corrective Action**

- a. Other corrective actions include

- Temporary or indefinite salary decrease.
- Suspension.
- Other action that may be appropriate under the circumstances, including dismissal.

b. At least one written warning shall be given an employee prior to taking any other corrective action, except when an employee knows or reasonably should have known that conduct or performance was unsatisfactory. An employee is expected to know that the conduct or performance is unsatisfactory if

- An employee's misconduct is of a serious nature such as, but not limited to, theft, dishonesty, misappropriation of Laboratory or UC funds or property, fighting (i.e., fisticuffs, physical struggle) on the job, an act that endangers others, or insubordination.

c. When corrective action other than a written warning or dismissal is to be taken, the department head/division leader gives the employee written notice of the action at least three working days before the effective date of the action. The written notice shall

- i. State the nature of the intended corrective action.
- ii. State the reasons for taking corrective action.
- iii. State the effective date of the action.
- iv. Include a copy of the appropriate charges or materials upon which the corrective action is based.
- v. Inform the employee that he/she has the right to respond orally or in writing prior to the effective date of the action.
- vi. State that the employee has the right to request a review of the action under [Section H, "Grievances and Administrative Review."](#)

## **II.6. Investigatory Leave**

### **II.6.1. Reason for Placing an Employee on Investigatory Leave**

An employee may be placed on investigatory leave (suspension without pay while a charge of serious misconduct is under investigation) by the supervisor, without prior written warning and without other approval, for a period of time (normally, no more than fifteen calendar days) sufficient to permit an investigation of alleged misconduct which, if substantiated, would be so serious as to warrant severe corrective action or dismissal. Such actions may include, but are not limited to acts endangering others, theft,

dishonesty, fighting (i.e., fisticuffs, physical struggle) on the job, and misappropriation or misuse of Laboratory or UC funds or property.

#### **II.6.2. Human Resources Manager and Department Head Reviews**

The supervisor should seek the advice and counsel of the department head/division leader and the Human Resources Manager prior to placing an employee on investigatory leave. If the circumstances are such that prior consultation is not feasible, the supervisor may place the employee on investigatory leave immediately. However, both the department head/division leader and the Human Resources Manager must be informed of the action taken to place the employee on investigatory leave at the first opportunity.

#### **II.6.3. Written Notice to Employee**

The employee must be informed in writing by the Human Resources Manager of the reasons for the investigatory leave and the duration of that leave, which normally will not exceed fifteen calendar days. This notice must be given to the employee in person or sent by registered mail no more than two working days following the effective date of the leave.

#### **II.6.4. Conclusion of Investigation**

Upon completion of the investigation, the employee shall be informed by the Human Resources Manager in writing of the result of the investigation and of the corrective action, if any, to be taken. If no corrective action is taken, the employee shall be paid his/her usual salary for the period of investigatory leave.

### **III. Fitness for Duty**

Employee fitness for duty is important to maintaining a safe work environment and to successful mission accomplishment. Employees who are unfit to work jeopardize the safety of themselves and others and negatively impact accomplishment of the Laboratory's work. The Laboratory has implemented a program of medical and/or psychological evaluations to determine fitness for duty in order to assist supervisors in the administration of their performance management responsibilities. An employee who fails or refuses to cooperate in a fitness for duty evaluation may be subject to corrective action up to and including dismissal.

#### **III.1. Deteriorating Performance**

Each supervisor is responsible for taking or requesting appropriate action whenever there is cause to believe that an employee's demonstrated judgment or performance has deteriorated or otherwise seems to be impaired. This action may involve verbal warnings or corrective action for performance or conduct deficiencies. It may also include requesting a medical and/or psychological evaluation.

Deteriorating performance should first be specifically identified and discussed with the employee as part of the supervisor's normal performance management responsibility. Performance might include elements such as absenteeism, tardiness, interpersonal difficulties, emotional outbursts, or other behaviors that are not appropriate in the workplace or consistent with the employee's past behavior.

The employee's medical condition, substance abuse, or personal situation might be a factor in the employee's deteriorating performance. If so, the supervisor should encourage the employee to contact the [Health Services Department \(HSD\)](#). An employee who does so is considered to have self-referred.

If performance does not improve, the supervisor should consult with specialists available for assisting with work-related problems, including Staff Relations specialists in Human Resources. In addition, these consultations may prompt a referral to the Health Services Department.

Before directing an individual to HSD for medical evaluation, the supervisor should obtain concurrence from the division/department management. The supervisor should discuss the employee's job assignment and requirements and concerns about the employee's performance and/or conduct with the HSD physician and/or psychologist in advance of the actual evaluation. The HSD physician will consider the behaviors identified by the supervisor and, at the completion of the evaluation, advise the supervisor and division/department management of any medical restrictions resulting from a review of the employee's medical condition in light of the work requirements and the supervisor's identified concerns. HSD will make a determination as to whether substance testing is necessary at the time of the evaluation. A psychological assessment may also be required. Any substance testing will be administered under the provisions of [Section E.III. Procedure A - Substance Testing](#).

### **III.2. Substance Testing for Cause**

The supervisor or another designated departmental management employee will accompany an employee to HSD, or, if after hours, to the Laboratory Assurance Office, as promptly as possible for substance testing and medical and/or psychological evaluation whenever:

- Behavior is observed that may pose an immediate threat to the health and safety of the employee or other employees and there is cause to believe that substance abuse is a factor.
- The use or possession of illegal controlled substances or unauthorized use or possession of alcohol has been observed in the workplace.
- A work-related accident or incident occurs where there is cause to believe the use of legal or illegal controlled or other substances, including alcohol, may have been a contributing factor.

The supervisor should, if possible, ask a coworker or another supervisor to corroborate the behavior before the individual is accompanied to HSD. Concurrence is required from the cognizant division/department management prior to medical and/or psychological evaluation or testing. Supervisors should also refer to [Section E.III. Procedure C - Supervisory Responsibilities for Administration of a Drug-Free Workplace](#).

[See also Section E.III. Procedure A - Substance Testing](#).

### **III. Fitness for Duty – Procedure A – Substance Testing**

#### ***Employee Rights and Laboratory Responsibilities***

In addition to [E.III.](#), [E.III.1.](#), and [E.III.2.](#), above, relating to Substance Testing for Cause, see also the [Laboratory Policy on Drug-Free Workplace \(Section D.II.2.\)](#), and following): [Section E.III. Procedure A – Substance Testing](#), [Section E.III. Procedure B – Laboratory Substance Abuse Programs](#), and [Section E.III. Procedure C – Supervisory Responsibilities for Administration of a Drug-Free Workplace](#).

#### ***Authorization to Release Information***

The employee must sign an authorization to release information to the Laboratory before any testing is done.

#### ***Testing Procedure***

The Laboratory Assurance Office will assure that substance testing is done in an appropriate manner and that high standards of quality assurance are maintained on the substance testing program.

Drug testing is conducted by outside, independent laboratories in accordance with criteria established by federal regulations. Any positive test results are verified by LLNL's certified Medical Review Officers (MROs) within the Health Services Department (HSD). As part of this verification, and before the test is declared positive or negative, the employee is offered the opportunity to discuss the results with an HSD MRO to determine whether there is a legitimate medical explanation for the test results.

#### ***Reporting of Results***

Results of all substance testing will be provided to the employee. The federal Department of Energy (DOE) and/or Department of Transportation (DOT) will be notified of cases where an individual undergoes substance testing for cause and the results are positive or where an employee in a safety- or security-sensitive position tests positive on any required substance test and is the holder of or applicant for an access authorization. Otherwise, information will only be released on a "need-to-know" basis. Except as required by law, the specific agent for which an employee has tested positive will be released only with the employee's consent.

[See also Section E.III. Procedure B "Laboratory Substance Abuse Programs."](#)

### **III. Fitness for Duty – Procedure B – Laboratory Substance Abuse Programs**

The Laboratory supports programs aimed at the prevention of substance abuse by Laboratory employees as well as assistance programs for those with problems related to substance abuse.

The [Health Services Department \(HSD\)](#) administers an [Employee Assistance Program \(EAP\)](#) which assists employees in dealing with personal and medical problems which negatively impact work performance. HSD also provides Substance Abuse Professional (SAP) evaluations of individuals in safety- and security-sensitive positions ([see Section D.II.2.5.](#)), as required by Federal regulations.

In the area of substance abuse, HSD offers:

- Training and orientation for employees and supervisors on substance abuse issues.
- Case evaluation.
- Fitness for Duty evaluations.
- Confidential counseling and referral for self-referred employees.
- Follow-up and aftercare monitoring.
- Assistance in treatment program development.
- Interface with health care providers.

#### [Employee Assistance Program \(EAP\)](#)

If indicated and approved by HSD, a comprehensive program of recovery assistance is available which uses off-site health care providers for inpatient and aftercare treatment. Funds are available in this program to supplement what is already covered by the employee's existing University medical plans.

NTS employees and supervisors should contact HSD for assistance in applying for Laboratory Substance Abuse Program and Employee Assistance Program services in Nevada.

#### *Employee Self-Referral to the [Employee Assistance Program](#)*

##### **a. Employees With Substance Problems**

Employees are encouraged to voluntarily seek assistance for substance dependency problems. Employees who do so are considered to have self-referred.

After consultation with and approval by HSD, the employee may obtain recovery assistance through the [Employee Assistance Program \(EAP\)](#). As part of the program, the

employee is required to enter into a written agreement with the Laboratory which identifies commitments and requirements of the Laboratory and the employee, and provides for necessary information releases. HSD will maintain the employee's self-referral and voluntary participation in a recovery assistance program in confidence unless the employee fails the program. Written agreements for employees in safety- or security-sensitive positions ([see Section D.II.2.5.](#)) may have different or additional requirements, in accordance with applicable Federal laws and regulations.

The results of initial EAP counseling sessions are confidential Laboratory records and will be accorded the protection required by applicable State and Federal law. Information released following entry into the recovery assistance component of the EAP will be governed by the provisions of the agreement between the employee and the Laboratory and applicable law and regulations. The supervisors of enrolled employees will be informed of any necessary work restrictions.

Successful recovery will be the determination of HSD. If at any time HSD determines that the employee has not succeeded in the recovery program and has not fulfilled the requirements of the recovery program agreement, the employee will be released from the EAP. The employee's supervisor will be notified of any release of work

restrictions. Employees in safety- or security-sensitive positions ([see Section D.II.2.5.](#)) may be subject to different or additional notification and reporting requirements, in accordance with applicable law.

An employee's voluntary decision to seek HSD assistance for a substance abuse problem will not be used by the Laboratory as a basis for corrective action. However, corrective actions for unsatisfactory performance or other improper conduct are not precluded by entry into the EAP.

#### b. Family Substance Abuse Issues

Employees with family members who have substance abuse issues are also encouraged to utilize the services of the Employee Assistance Program.

### **III. Fitness for Duty – Procedure C – Supervisory Responsibilities for Administration of a Drug-Free Workplace**

Supervisors are required to take action should they suspect that the performance or conduct of employees under their supervision is impaired by a substance. Such action should include maintaining specific information on the employee's behavior and performance for use in performance management and in any discussions with HSD as to the employee's work performance or restrictions; encouraging employees to access the Laboratory's EAP or other counseling resources and supporting them when they do; consulting with at least one other departmental manager before requesting for cause substance testing; asking a coworker or another supervisor to corroborate the employee's behavior prior to accompanying the employee for substance testing; obtaining

concurrence from division/department management before accompanying an employee to HSD for evaluation; and accompanying employees to HSD for fitness for duty, medical and/or psychological evaluation as necessary. In addition:

- a. The supervisor who requests for cause testing or another designated departmental management employee should accompany the employee to HSD. If it is after hours, the supervisor or other management employee should accompany the employee to the Laboratory Assurance Office (LAO) or other designated after-hours official to arrange for immediate testing.
- b. The supervisor or other designated departmental management employee should remain at HSD or LAO until the testing procedure is complete.
- c. If the substance testing is performed after hours, the employee should be directed to report to HSD for medical and/or psychological evaluation the next day.
- d. The supervisor should notify the Safeguards and Security Department for assistance in confiscating alcohol, drugs, and drug paraphernalia or in dealing with employees when the supervisor suspects on-site violations.
- e. The supervisor should consult with the Staff Relations Division of Human Resources, as appropriate.
- f. The supervisor should advise the Safeguards and Security Department or the Staff Relations Division of Human Resources if the supervisor becomes aware that an employee has been arrested or convicted for a drug or alcohol-related offense off site.

Supervisors of employees in safety- or security- sensitive positions may have additional or different responsibilities, as required by Laboratory and Federal rules and regulations.

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For policy-related questions, contacts are:  
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